

LABOUR DEPARTMENT

The 28th October, 1986

No. 9/6/86-6Lab./7803.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of (i) Secretary, H.S.E.B., Chandigarh (ii) The Executive Engineer, S.I. Construction Division, Haryana State Electricity Board, Karnal:—

**IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA**

Reference No. 206 of 1985

between

**SHRI BALBIR SINGH, WORKMAN C/O TRADE UNION COUNCIL, PATIALA (PUNJAB)
AND THE MANAGEMENT OF (I) SECRETARY H.S.E.B., CHANDIGARH (II) THE
EXECUTIVE ENGINEER, S.I. CONSTRUCTION DIVISION, HARYANA STATE ELECTRI-
CITY BOARD, KARNAL**

Present :

Shri Tejinder Singh for workman.

Shri S. S. Sirohi, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Balbir Singh and the H.S.E.B., etc. to this Court. The terms of the reference are as under :—

“Whether termination of services of Shri Balbir Singh is justified and correct ? If not, to what relief is he entitled ?”

Workman alleged that he joined the services of respondent-management as a T. Mate and had served for 1381 days. His services were terminated on 1st September, 1983 without any proper notice, charge-sheet, enquiry or retrenchment compensation. So he alleged that his termination is violative to section 25(F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that the reference is bad for mis-joinder and non-joinder of proper parties. There is no relationship of employee and employer between the parties. S. I. Construction Division has been closed with effect from 31st December, 1984 and no such Division as S.I. Construction Division is in existence at Karnal and as such the workman has got no right of reinstatement. It was further contended that the workman was employed on daily wages as a Labourer with effect from 1st December, 1979 at the rate of Rs. 8 per day. Services of workman were terminated with effect from 1st March, 1983. Before terminating his services retrenchment notice was issued and retrenchment compensation was paid to him. Retrenchment was effected strictly according to the seniority List displayed by the management on the board and there is no violation of section 25 (F) of Industrial Disputes Act, 1947.

Workman filed replication through which he refuted the allegations of the respondent-management.

On the pleadings of the parties the following issues were framed:—

Issues :

- (1) Whether the order of termination is according to law; if not, its effect?
- (2) Whether the reference is bad for non-joinder and mis-joinder of necessary parties.
- (3) Whether reference is not maintainable?
- (4) Whether there is no relationship of Employer and Employee between the parties.

- (5) Whether the work and Department have ceased due to completion of work; if so, its effect.
- (6) Relief.

I have heard Shri Tejinder Singh Ld. A. R. for workman and Shri S. S. Sirohi for respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under:

Issue No. 1:

In support of this issue management examined Shri Balbir Singh, Head Clerk who deposed that workman Balbir Singh was employed on daily wages basis. Seniority List was prepared and seniority of applicant exist at Serial No. 189. According to this seniority List workmen from 175 to 273 were retrenched on 31st August, 1983, before passing retrenchment orders, notices of retrenchment as required under section 25(F) were issued to all the workman and to Balbir Singh also. Copy of Seniority List is Ex. M-1. Copy of notice is Ex. M-2. At the time of retrenchment of all the workmen retrenchment compensation and residue pay were paid to all the workmen. In cross-examination he stated that he is in the service of respondent-management since 26th March, 1959. He stated that notice of Retrenchment was issued, all the dues, gratuity and retrenchment compensation were paid to the workman.

Shri Balbir Singh, workman examined himself as AW-1 and he stated that he joined service of respondent-management on 1st December, 1979 on work-charged basis and was terminated on 1st September, 1983. He further deposed that before the termination order of 1st September, 1983 he had been terminated earlier also. At the time he issued demand notice, the dispute was compromised by the Conciliation Officer. He again joined the service of respondent-management and thereafter he was again terminated. In cross-examination he admitted that before his retrenchment, he got retrenchment notice of one month and retrenchment compensation as well as back-wages were paid on the same day. He categorically stated that his no pay is due towards respondent management.

Leaving aside the whole evidence of the management the sole statement of workman Balbir Singh is sufficient. To brush aside the case of the workman, his own admission is sufficient where he stated that before terminating his services he received one month's retrenchment notice on the day of retrenchment, he got his back wages as well as retrenchment compensation and no dues are outstanding towards Management. It shows that the respondent-management before dispensing with services of the workman issued retrenchment notice, was issued, retrenchment compensation was paid and all the outstanding dues were also paid by the management to the workman. So termination order is just as well as correct. So this issue is decided in favour of the management against the workman.

Issue No. 2 :

This issue has become redundant because workman made amendment in the statement of claim and HSEB has been joined as a respondent.

Issue No. 3 :

The reference is not maintainable because the management terminated service of workman in compliance with provisions of section 25(F) of Industrial Disputes Act, 1947.

Issue No. 4 :

After retrenchment there is no relationship of employer and employee between the parties, so this issue is decided accordingly.

Issue No. 5 :

It is in the evidence of the management that S. I. Construction Division was closed because the work had been completed and the division has ceased, so the workman has got no relief against S. I. Division. So this issue is decided against workman in favour of management.

Issue No. 6—Relief:

For the foregoing reason on the basis of my issue-wise findings, I hold that the termination of the workman is according to provision of section 25(F) of Industrial Disputes Act, so his termination

is just and correct. workman is not entitled to relief claimed for, so I pass award regarding the dispute in hand accordingly.

V. P. CHAUDHARY,

Dated the 21st August, 1986.

Presiding Officer,
Labour Court, Ambala.

Endst. No. 2115, dated the 25th August, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab/7807.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s (i) Managing Director, Hafed, Haryana, Chandigarh (ii) District Manager, Hafed, 1402/4 Shukle Kund Road, Ambala City.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 128 of 1985

between

SHRI RAM CHANDER TANWAR, S/O SHRI JAI PAL SINGH, VILLAGE SIHORA,
P.O. PILKHAWA, DISTT. GAZIABAD-245304 AND THE MANAGEMENT
OF THE MESSRS MANAGING DIRECTOR, HAFED, HARYANA,
CHANDIGARH (ii) DISTT. MANAGER, HAFED, 1402/4, SHUKLE
KUND ROAD, AMBALA CITY

Present :

Shri Rajeshwar Nath, for the workman.

Shri S. K. Sood, for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (c) of subsection (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Ram Chander Tanwar and Messrs Managing Director, Hafed, Haryana, Chandigarh, etc., to this court. The terms of the reference are as under :—

“Whether termination of services of Shri Ram Chander workman is justified and correct? If not, to what relief is he entitled?”

Workman through his statement of claim alleged that he joined as a clerk in the respondent-management service on 10th September, 1980 and was terminated on 19th June, 1982. He was again taken in job on 21st June, 1982. He deposited his security, thereafter he was kept on duty only up to 23rd June, 1982 and on 24th June, 1982 he was not allowed to mark his presence in the Attendance Register. He served demand notice when the Government refused to refer his dispute to the Labour Court. He approached the Hon'ble High Court. Thereafter his case was referred to this Court. He agitated that his termination is violative to section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that under the Haryana Co-operative Societies Act, 1984 no Labour Court, no Industrial Tribunal is competent to adjudicate upon any dispute between the Workman and Employer under the Co-operative Societies. It was further contended that on 12th June, 1981 interview of Clerks was held. Three Ram Chander for interview present workman Ram Chander was never selected but he obtained appointment letter of another Ram Chander by

playing a fraud upon the despatcher and joined services. When this fact came to the light his services were discontinued, so it was prayed that he is not entitled to reinstatement as alleged.

On the pleadings of the parties issues were framed. At the request of the parties the case was adjourn *sine die* because it pertained to Co-operative Department and dispute regarding jurisdiction of this Court was subjudice with the Hon'ble High Court, so the case was adjourn *sine die* and file was consigned to record room. On 11th August, 1986 at the request of the parties the case was taken up, workman produced photostat copy of compromise between the parties which is Ex. A-1. Statement of workman was recorded. Workman deposed that the management has agreed to take him on duty with continuity of service and relief of back wages have been withheld.

In view of written compromise and statement made in court on oath by the workman the parties are allowed to compromise Ex. A-1.

In view of the above compromise it is ordered that the respondent-management shall reinstate the workman with the relief of continuity in service without back wages. So, I pass award regarding the dispute between Shri Ram Chander and Messrs Hafed, etc. accordingly as per their compromise.

V. P. CHAUDHARY,

Presiding Officer,

Labour Court, Ambala.

Dated the 11th August, 1986.

Endst. No. 2156, dated the 25th August, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,

Labour Court, Ambala.

No. 9/6/86-6 Lab./7825.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Raj Kishan & Company, Panipat Works Thermal Power Project, Assan, Panipat.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 104 of 1986

between

**SHRI VASDEV JHA S/O SHRI BHOLA JHA, C/O SHRI BALINDER SINGH, PANIPAT
AND THE MANAGEMENT OF THE MESSRS RAJ KISHAN & COMPANY,
PANIPAT WORKS THERMAL POWER PROJECT ASSAN, PANIPAT**

Present:

Shri Balinder Singh for the workman.

Shri S. Kaushal, for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Vasdev Jha and Messrs Rajkishan & Company, Panipat Works Thermal Power Project, Assan, Panipat to this Court. The terms of the reference are as under :—

“Whether termination of the services of Shri Vasdev Jha son of Shri Bhola Jha is just and correct? If not, to what relief is he entitled?”

Workman through his demand notice, dated 18th October, 1985 alleged that he was in the service of respondent-management for the last one year as a Chowkidar and used to get Rs. 421 P. M. On 10th October, 1985 his services were terminated by the management in violation of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent management appeared through Shri S. Kaushal. Today the case was fixed for filing the claim statement. But Shri Balinder Singh, Authorised representative of the workman made statement that the whereabouts of the workman Shri Vasdev are not available. The workman is not traceable. So he prayed that the reference may be filed for the time being. He shall get it restored on the availability of the workman. Shri S. Kaushal did not raise any objection to the prayer of A. R. of workman, so the reference is filed for the time being with the direction that the workman shall be at liberty to get it restored as and when he so desired.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Dated the 29th August, 1986.

Endst. No. 2219, dated the 24th August, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab./7827.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s. The Co-operative Credit and Service Society, Ltd., Karnal :—

**IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA**

Reference No. 133 of 1986

between

**SHRI NASIB SINGH, SON OF SHRI SULTAN SINGH C/O SHRI JANG BAHADUR
YADAV, DISTRICT COOPERATIVE MINI BANK KARAMCHARI, 150 CHAR
CHAMAN KARNAL AND THE MANAGEMENT OF THE MESSRS THE
CO-OPERATIVE CREDIT AND SERVICE SOCIETY, LTD., KARNAL**

Present :—

Shri Jang Bahadur, for workman.

Shri Ishwar Dass, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of the powers conferred,—*vide* clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred dispute, between Shri Nasib Singh and Messrs The Co-operative Credit and Service Society Ltd., Karnal to this Court, The terms of the reference are as under :

"Whether termination of services of Shri Nasib Singh is justified and correct ? If not, to what relief is he entitled ?"

Workman through his demand notice alleged that he was employed as a Clerk at the pay of Rs 350 per mensem since 30th March, 1983. His services were terminated on 30th January, 1986 in violation of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent management appeared Shri Ishwar Dass, Manager of the Central Co-operative Bank, Karnal made statement that since 17th August, 1986 workman Nasib Singh has been taken in service as per resolution of the Board of Directors and the matter has been settled. Shri J. B. Yadav

A.R., for the workman also made similar statement, so the dispute is disposed of as compromised. I pass award regarding the dispute between the parties accordingly.

Dated the 29th August, 1986.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endst. No. 2211, dated the 29th August, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

The 30th October, 1986

No. 9/9/86-6Lab./7712.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s (i) Goodyear India Limited, Ballabgarh, (ii) M/s. Hansa Cater C/o Goodyear India Ltd., Ballabgarh.

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA FARIDABAD

Complaint No. 8/1984 under section 33-A of the Industrial Disputes Act, 1947

between

SHRI MADAN SINGH COMPLAINANT AND THE MANAGEMENT OF M/S (I)
GOODYEAR INDIA LIMITED, BALLABGARH, (II) M/S. HANSA CATER, C/O
GOODYEAR INDIA LTD., BALLABGARH.

Present :

Shri S. S. Saini, Authorised Representative for the Management.

None for the Complainant.

AWARD

Shri Madan Singh complainant has filed a complaint under section 33-A of the Industrial Disputes Act, 1947 on the allegations that he is in the service of the opposite party M/s. Goodyear India Ltd., Ballabgarh since 23rd March, 1979 and that he was working continuously in the canteen of the company. He alleged that there arose an industrial dispute between the workmen and the management and said dispute was pending for adjudication before the Tribunal on the reference having been made by the State Government to the Tribunal under section 10(1)(d) of the Industrial Disputes Act, 1947. The said dispute has been registered at reference No. 171/81 and 263/1981. He further alleged that during the pendency of said reference, the respondent has changed his service condition in as much as he has been given fresh appointment letter by M/s. Hansa Cater at the instance of the Management of M/s. Goodyear India Ltd., Ballabgarh.

2. Notices of the complaint was issued to the opposite party. M/s. Hansa Cater respondent No. 2, did not appear despite service and *ex parte* proceedings were taken against them. The respondent No. 1, however took the plea that there was no relationship of employer and employee between the parties and that the present complaint was not maintainable against them.

3. On the pleadings of the parties, the following issues were framed by my predecessor :—

(1) Whether the complaint is maintainable? OPW

(2) Whether there is no relationship of employer and employee between the parties ? OPW

(3) Whether the so called fresh appointment letter dated 8th January, 1984 has been issued by respondent No. 1, i.e. M/s Goodyear India Ltd., as alleged? OPW

(4) Whether the respondents have charged and committed breach of service conditions of the petitioner as alleged? OPW

4. Later on the complainant also absented himself and his authorised representative also did not put up in appearance and *ex parte* proceedings were taken against the applicant.

5. The respondent however examined Shri K. L. Khurana MW-1.

6. I have heard Shri S. S. Saini Authorised Representative of the respondent No. 1 and perused the record.

7. Shri Madan Singh complainant had dispute with the Management of M/s Goodyear India Ltd., Ballabgarh. The said dispute was adjudicated in references No. 263, 282 to 288/1981 and 177/1981 by Shri R. N. Batra, the then Presiding Officer, Industrial Tribunal, Haryana, Faridabad. The award was given on 16th December, 1985 and 17th December, 1985, which were published in the *Haryana Government Gazette*, on 4th March, 1986. The Tribunal has given a clear verdict that the workmen were not the employees of M/s. Goodyear India Limited, Ballabgarh. It was held that the workmen were the employees of M/s. Nirkanri Caters Canteen Contractor, in reference No. 263/1981 and employees of M/s. Jaswani Bro. Canteen Contractor and M/s. Puran Chand Canteen Contractor in reference No. 177/1981. The copy of the award has been placed on the record. Thus there is no relationship of master and servant between the complainant and respondent No. 1, i.e. M/s. Goodyear India Ltd., Ballabgarh. Consequently the complaint is not maintainable against respondent No. 1. That apart the applicant has not adduced any evidence to substantiate that so called fresh appointment letter has been issued by M/s. Hansa Cater at the instance of M/s. Goodyear India Ltd., Ballabgarh. The applicant has not established by adducing any evidence that the respondent No. 1 had changed his service conditions during the pendency of the reference. Thus the complaint has no merit and the same is hereby dismissed. The award is passed accordingly.

S. B. AHUJA,

Dated the 29th August, 1986.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 586, dated 29th August, 1986

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour & Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9/9/86-6Lab/7927.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Partap Steel Rolling Mills Ltd., 21/3, Mathura Road, Sector 4, Ballabgarh :—

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD

Complaint No 1/1986 Under Section 33-A of the Industrial Disputes Act, 1947

between

SHRI FATEH CHAND, S/O SHRI LAHORI C/O CITU, GOPI COLONY, FARIDABAD AND THE
MANAGEMENT OF M/S PARTAP STEEL ROLLING MILLS LTD., 21/3, MATHURA ROAD,
SECTOR 4, BALLABGARH

Present :—

Shri S. C. Srivastva, for the workman-complainant.

Shri M. P. Gupta, for the management.

AWARD

There existed an industrial dispute between workman and the management of M/s Partap Steel Rolling Mills Ltd., 21/3, Mathura Road, Sector 4, Ballabgarh. The said dispute was referred to this Tribunal for adjudication. The reference bearing No. 184/84 is pending for adjudication.

2. During the pendency of the reference, the respondent dismissed the complainant in violation of the provisions of section 33 of the Industrial Disputes Act, 1947 (hereinafter referred as the Act).

3. The complainant accordingly filed the complaint under section 33-A of the Act.

4. Notice of the complaint was given to the respondent and complaint was contested. Issues were settled and the case was fixed for evidence of the management.

5. Today Shri S. C. Srivastva, Authorised Representative of the complainant made a statement to the effect that he had no instructions to appear and prayed that the complaint be dismissed.

6. Shri M. P. Gupta, learned Authorised Representative of the management made a statement that the complainant had settled the dispute with the respondent management and received Rs 5,062.15 paise in full and final settlement of his claim. He produced on record Ex. M-1 photostat copy of the receipt and prayed that the complaint be dismissed as no point survives for adjudication.

7. In view of the statement made by the Authorised Representative Shri M. P. Gupta, it is apparent that the dispute between the parties has been settled and nothing remains for adjudication. The complaint is accordingly dismissed.

S. B. AHUJA,

Dated the 4th September, 1986.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 616, dated the 17th September, 1986.

Forwarded (three copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9/9/86-6Lab/7928.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the workman and the management of M/s Partap Steel Rolling Mills Ltd. 21/3 Mathura Road, Sector 4, Ballabgarh.

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Complaint No. 16/1986

Under section 33-A of the Industrial Disputes Act, 1947

between

SHRI SUBODH PARSAD NAYAK COMPLAINT C/O CITU, GOPI COLONY,
FARIDABAD AND THE MANAGEMENT OF M/S PARTAP STEEL ROLLING
MILLS LTD., 21/3 MATHURA ROAD, SECTOR-4, BALLABGARH

Present.—

Shri S. C. Srivastva for the Complainant

Shri K.P. Aggarwal for the management.

AWARD

There existed an industrial dispute between workman and the management of M/s Partap Steel Rolling Mills Ltd., 21/3, Mathura Road, Sector-4, Ballabgarh. The said dispute was referred to this Tribunal for adjudication. The reference hearing No. 184/84 is pending for adjudication.

2. During the pendency of the reference, the respondent dismissed the complaint in violation of the provisions of section 33 of the Industrial Disputes Act, 1947.

3. The complainant accordingly filed the complaint under section 33-A of the Industrial Disputes Act, 1947.

4. Notice of the complainant was given to the respondent and complaint was contested. Issues were settled and the case was fixed for evidence of the management.

5. Today Shri S. C. Srivastva, Authorised Representative of the complainant made statement to the effect that he had no instructions to appear and prayed that the complaint be dismissed.

6. Shri K.P. Aggarwal, learned Authorised Representative of the management made a statement that the complainant had settled the dispute with the respondent-management and received Rs. 8648.15 paise in full and final settlement of his claim. He produced on record Ex. M-2 photostat copy of the receipt and Ex. M-2 the original letter duly signed by the complainant to withdraw his complaint and prayed that the complaint be dismissed as no point survives for adjudication.

7. In view of the statement made by the authorised Representative Shri K. P. Aggarwal it is apparent that the dispute between the parties has been settled and nothing remains for adjudication. the complaint is accordingly dismissed.

Dated 5th September, 1986.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal Haryan
Faridabad.

Endst. No. 614, dated 17th September, 1986.

Forwarded (three copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 28th October, 1986

*No. 9/6/86-6 Lab./7833.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s Administrator, Haryana Urban Development Authority, Chandigarh, (ii) Executive Engineer, H. U. D. A., Panchkula.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 11 of 1986

SHRI PREM SINGH SON OF SHRI JOGINDER SINGH, VILLAGE MADALPUR, PANCHKULA DISTRICT AMBALA AND THE MANAGEMENT OF MESSRS ADMINISTRATOR HARYANA URBAN DEVELOPMENT AUTHORITY, CHANDIGARH. EXECUTIVE ENGINEER, H. U. D. A., PANCHKULA

Present.—

Shri Tejinder Singh, for workman.

Shri R. S. Sethi, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred.—*vide* clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred dispute between Shri Prem Singh and Messrs Haryana Urban Development Authority, etc. to this court. The terms of the reference are as under:—

"Whether termination of services of Shri Prem Singh, is justified and correct ? If not, to what relief is he entitled ?"

Workman through his statement of claim alleged that he was appointed as a Gardener in 1982 and worked as such until 21st March, 1983,—*vide* order dated 22nd March, 1983 he was appointed as Tractor Driver in the scale of Rs 420—700. Workman submitted his joining report on 23rd March, 1983 since then he had been discharging duty of Tractor Driver to the satisfaction of the respondent management. On 12th July, 1985 respondent management to accommodate one Shri Rasheed Singh terminated services of the workman in violation of section 25 (F) of Industrial Disputes Act, 1947. It was prayed that he be reinstated with continuity in service and with full back wages.

Respondent management contested the dispute and contended that H.U.D.A. is not an industry, so the claim is not maintainable in Labour Court. It was further contended that services of workman were dispensed with as per terms and conditions of the appointment letter. On the recruitment of regular candidates through Employment Exchange.

On the pleadings of the parties the following issues were framed :—

Issues

- (1) Whether termination of Prem Singh is unjust and incorrect, if so, its effect ?
- (2) Relief.

I have heard Shri Tejinder Singh, Authorised Representative for workman and Shri R.S. Sathi for respondent management and have perused the oral and documentary evidence placed on the file. My issuewise findings are as under :

Issue No. 1

Workman Prem Singh appeared in the witness-box and made on oath that he joined as a Gardener on daily wages in 1982 and worked as such up to 21st March, 1983 on 22nd March, 1983 he was appointed as a Tractor Driver and he worked up to 12th July, 1985. At the time of dispensing with his services respondent-management did not issue any notice nor paid any retrenchment compensation. Certain juniors were also retained in service, but Shri Prem Singh in cross-examination admitted this fact that his appointment was subject to terms and the conditions of appointment letter in which it had been clearly mentioned that services of workman Prem Singh could be dispensed with at any hour without any notice, enquiry or charge-sheet etc. He also admitted that he was recruited as a Direct candidate. He further stated that when the regular candidates were called through Employment Exchange his name was not referred so he could not be selected and the candidates who had been sponsored by the Employment Exchange were recruited by the respondent management.

Shri Dila Ram MW-1 also made similar statement. Respondent management also tendered into evidence certain documents Ex. R-1 to Ex. R-4. Ex. R-1 is a copy of letter of termination of services of workman. Ex. R-2 is letter which respondent wrote to Estate Officer for recommending the candidates for the post of Tractor Driver. Ex-R-4 is a list of candidates who were sent by Employment Exchange to respondent for the selection of Tractor Driver.

In view of the above evidence I am of the considered opinion that as per terms and conditions detailed in Ex. A-3 Prem Singh was appointed as a Tractor Driver on work-charge basis in the scale of Rs 420—700 on monthly basis. It was specifically made known to the workman that his services are liable to be terminated without any notice in case he is willing to accept the post of Tractor Driver he could do so. So in these circumstances the recruitment of Shri Prem Singh was on temporary basis monthwise. As soon as month period was over his services expired and his service period had been renewed time and again. Ultimately the Department felt to recruit Tractor Driver through Employment Exchange. At that time name of workman Prem Singh for interview for the post of Tractor Driver was not recommended by the Employment Exchange to H.U.D.A., so he could not take part in that interview, so he could not be selected on regular basis as a Tractor Driver.

After coming in force of newly inserted amendment section 2(oo) (bb) it has been made clear that if the appointment of particular workman is for a specific period and it is not renewed that

205

is not a termination and section 25 (F) is not attracted, so in these circumstances workman Prem Singh is not entitled to relief claimed for. This issue is decided, in favour of respondent management against workman.

Issue No. 2 Relief

For the foregoing reasons of the basis of my issuewise findings I hold that that Prem Singh is not entitled to relief of continuity in service and with full back wages. I pass award between the parties Prem Singh and Messrs H.U.D.A. accordingly.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Dated the 28th August, 1986.

Endst. No. 2197, dated 28th August, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

The 30th October, 1986

No. 9/9/86-6Lab./7929.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s (i) Prestolite of India Ltd., 16/4, Main Mathura Road, Faridabad. (ii) S. S. Sahni Managing Director of M/s Prestolite of India Ltd., W-65, Greater Kailash I, New Delhi.

**BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD**

Complaint No. 7/1984

Under section 33-A of the Industrial Disputes Act, 1947.

between

**SHRI IQBAL SINGH, COMPLAINANT AND THE MANAGEMENT OF M/S PRESTOLITE
OF INDIA LTD., 16/4, MAIN MATHURA ROAD, FARIDABAD. (ii) S. S. SAHNI
MANAGING DIRECTOR OF M/S PRESTOLITE OF INDIA LTD., W-65,
GREATER KAILASH-I, NEW DELHI.**

Present :—

Shri Iqbal Singh, complainant in person.

Shri Pardeep Sharma, for the management.

AWARD

This complaint under section 33-A of Industrial Disputes Act, 1947 has been filed by Shri Iqbal Singh against the Management of M/s Prestolite of India Ltd., 16/4, Main Mathura Road, Faridabad. (ii) S. S. Sahni, Managing Director of M/s Prestolite of India Ltd., W-65, Greater Kailash-I, New Delhi.

2. The complainant case is that he was employed with respondent No. 1 through respondent No. 2 since 18th October, 1982 in the capacity of Assistant Security Officer and was drawing Rs. 700 per month. The workmen raised general demand regarding lock out and the reference arising out of that general demand is pending for adjudication before this Tribunal against respondent No. 1. He alleged that the respondent during the pendency of general reference No. 1/1984, illegally terminated his services. He challenged the action of the respondent in this complaint.

3. Notice of the complaint was issued to the opposite party and the reference was contested by the respondents who denied the allegations made against them.

4. On the pleadings of the parties, the following issues were settled by my predecessor Shri R. N. Batra :—

(i) Whether the impugned order terminating the services of the complainant is illegal as alleged ? OPM

5. Now the parties have amicably settled the dispute and the statement of Shri Iqbal Singh complainant and Shri Pradip Sharma authorised representative of respondent have been recorded today. Their joint statement is to the following effect:—

Joint Statement of Shri Iqbal Singh Complainant and Shri Pradip Sharma Representative of the Management on S.A.

The parties have mutually settled the dispute. The respondent has agreed to pay a sum of Rs. 8,200 to the complainant Shri Iqbal Singh in full and final settlement of his claim and all kind of dues. The Management would pay this amount of Rs. 8,200 in three equal instalments on or before 19th September, 1986, 6th October, 1986 and 21st October, 1986, respectively. The amount of each instalment would be paid before this Tribunal on the dates mentioned above. The complainant has relinquished all his rights including right of reinstatement or re-employment. The parties have also agreed that in default of payment of any instalment by the due date the complainant shall be deemed to be in service of the respondent and his termination of service would be deemed as null and void. The award may please be passed accordingly in term of the settlement.

6. In view of the joint statement of the parties reproduced above nothing survives for adjudication and the award is passed accordingly in term of the above statement. The parties shall be bound by the terms of statement made by them today.

Dated the 4th September, 1986.

S. B. AHUJA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 615, dated the 17th September, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

The 24th October, 1986

No. 9/7/86-6Lab./7455.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and management of (i) The Haryana State Federation of Consumers Co-operative Wholesale Stores Ltd., Confed, Chandigarh (ii) Kohla Co-operative Agriculture Credit Society Ltd., Kohla (iii) Sonepat Central Co-operative Bank Ltd., Sonepat.

BEFORE SHRI B. P. JINDAL,
PRESIDING OFFICER,
LABOUR COURT, ROHTAK
Reference No. 43 of 84
between

SHRI RAJ PAL SINGH. WORKMAN
AND THE MANAGEMENT OF (i) THE
HARYANA STATE FEDERATION OF

CONSUMERS CO-OPERATIVE WHOLESALE STORES LTD., CONFED, CHANDIGARH, (ii) KOHLA CO-OPERATIVE AGRICULTURE CREDIT SOCIETY LTD. KOHLA, (iii) SONEPAT CENTRAL CO-OPERATIVE BANK LTD, SONEPAT
Shri S. S. Gupta, Authorised Representative for the workman.
Shri M. C. Bhardwaj, Authorised Representative for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Raj Pal Singh and the management of (i) The Haryana State Federation of Consumers Co-operative Wholesale Stores Ltd., Confed, Chandigarh, (ii) Kohla Co-operative Agriculture Credit Society Ltd. Kohla, (iii) Sonepat Central Co-operative Bank Ltd., Sonepat, to this Court, for

adjudication,—*vide* Haryana Government Gazette Notification No. 13948-53, dated 3rd April, 1984:—

Whether the termination of services of Shri Raj Pal Singh is justified and in order ? If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was appointed as a Salesman by respondent No. 1 since 1982 on a consolidated salary of Rs. 350 per mensem and that in the year 1983 the respondent No. 1 through its District Manager transferred the services of the applicant to Kohla Co-operative Agriculture Credit Society, Ltd., Kohla with the consent of the petitioner and that he was told at that time that he was being sent on deputation and shall remain an employee of the respondent No. 1 on the same terms and conditions and that the said transfer was illegal and unjustified, because the District Manager of respondent No. 1 had no authority to effect such a transfer and furthermore the said transfer was an unfair labour practice hit by the provisions of the Industrial Disputes Act, 1947, because the intention of respondent No. 1 was to get rid of the petitioner in a *mala fide* manner, because through the agency of the Society, his services were terminated,—*vide* order, dated 18th May, 1983 and as such, the said order of termination being retrenchment was brought about without complying with the mandatory provisions of section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). So, he has prayed for reinstatement with continuity of service and full back wages.

3. The original reference was made against The Haryana State Federation of Consumers Co-operative Wholesale Stores Ltd., Confed Chandigarh (hereinafter referred to as the Federation), but subsequently, on an application made by the petitioner two more respondents were added (hereinafter referred to as the Society and the Bank).

4. In the reply filed by the respondent No. 1, preliminary objections taken are that the petitioner was not an

employee of the respondent at the time of termination of his services and as such, the reference is bad for non-joinder of proper parties. On merits, it is alleged that the Registrar Co-operative Societies, Haryana, Chandigarh, ordered the transfer of retail outlets of the answering respondent to mini banks, district Sonepat and so, all the outlets of district Sonepat were transferred as such, alongwith its staff without any protest and the petitioner joined the services of the mini bank of village Kohla, which was a registered Co-operative Society like answering respondent. The transfer was brought about on 18th May, 1983.

5. Similarly in the reply filed by the newly added respondent, it is alleged that after his transfer to the mini bank, the respondent society passed a fresh resolution regarding appointment of the petitioner in the Kohla Co-operative Agriculture Credit Society Ltd., Kohla and the said appointment was made on purely temporary basis and so, there is no question of the petitioner being a transferred employee from respondent No. 1. It is further alleged that since the said Society was incurring heavy losses, so much so, that the profit of the Society was even less than the salary of the petitioner, the retail outlets were closed and there was no other place where the petitioner could be adjusted and as such, the respondent Society was constrained to dispense with the services of the petitioner, so, it is alleged that under these circumstances, the provisions of section 25F, Industrial Disputes Act, do not come into play.

4. On the pleadings of the parties, the following issues were settled for decision by me on 23rd January, 1985 :—

- (1) Whether the workman was not an employee of the respondent on the date of alleged termination of his services ? OPR.
- (2) Whether the reference is bad for non-joinder of proper party ? OPR.
- (3) As per terms of reference.

5. The petitioner himself appeared as WW-1 and the respondent examined Shri Ram Lal, General Manager, MW-1 and MW-2 Shri Pratap Singh, Secretary.

6. The learned Authorised Representatives of the parties heard.

ISSUES NO. 1 AND 2:

7. These issues have become redundant, because the petitioner has since arrayed respondent No. 2 and 3 as parties in the present reference. Admittedly, the petitioner was not an employee of respondent No. 1 after his transfer to the mini bank known as Kohla Co-operative Agriculture Credit Society, Kohla. So, both these issues are answered against the respondent.

ISSUE NO. 3:

8. The learned Authorised Representatives of respondent No. 1 Shri M. C. Bhardwaj, contended that in view of the provisions of section 25(FF) sub-clause (b), the respondent No. 1 is not liable for any action taken against the petitioner. It is not in dispute that the services of the petitioner were transferred to the Mini Bank on the same terms and conditions by the Registrar Co-operative Societies, — vide his letter, Exhibit M-1. The said letter is, dated 21st August, 1982. Since the service conditions of the petitioner remained un-changed after his transfer, respondent No. 1 was absolved of all liabilities under section 25F of the said Act *qua* the petitioner. For ready reference provisions of section 25-FF of the Industrial Disputes Act, 1947 can be quoted with advantage:—

Compensation to workman in case of transfer of undertaking.—

Where the ownership or management of an undertaking is transferred, whether by agreement or by operation or law, from the employer in relation to that undertaking to a new employer, every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer

shall be entitled to notice and compensation in accordance with the provisions of Section 25-F, as if the workman had been retrenched.

Provided that nothing in this section shall apply to a workman in any case where there has been a change of employers by reason of the transfer, if—

- (a)
- (b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer; and

9. The case of the respondent No. 2 is that after his transfer to the Society *denovo* appointment of the petitioner was made and as such, since the petitioner had not put in 240 days of actual work with the respondent, his termination does not attract the provisions of Section 2(oo) of the said Act and so, compliance with the mandatory provisions of Section 25-F of the said Act was not necessary. This contention is devoid of any force, because the Registrar, Co-operative Society ordered for the transfer of the petitioner on the same terms and conditions with the mini bank, which respondent number 2 is. It is immaterial that the respondent number 2 choose to make any *denovo* appointment of the petitioner, his conditions of appointment could not have been altered by respondent number 2 unilaterally without concurrence of the Registrar Co-operative Societies Haryana, who has got supervisory control over all Societies, Federations, registered under the Haryana Co-operative Societies Act, 1984.

10. The Secretary of the Society, who has appeared in the Court as MW-2 stated that services of the petitioner were dispensed with on 18th May, 1983, because the total profit to the Society from the sale of goods was Rs. 1207, whereas Society has to pay a sum of Rs. 1900 as salary to the petitioner, so the running of the retail outlets was not a good going for the respondent and the Society could ill afford to incur further losses. This part

of his testimony remains unassailed. Under these circumstances, there is no difficulty in holding that the retail outlets, at which, the petitioner was posted after his transfer to the respondent Society was incurring heavy losses, so much so, that the retail outlets was not even able to show profit equal to the salary of the petitioner. These retail outlets have been opened by the Government to make available essential commodities to the rural people at reasonable rates but there functioning is so slovenly that they hardly serve the purpose, for which, they were intended to serve. This Court will refrain from delving deep into the reasons for the loses such Societies incur but at the moment it is faced with the peculiar situation where an employee who has completed more than 240 days of actual work with the respondent was summarily dismissed from service without complying with the mandatory provisions of section 25F of the said Act, because no prior notice or retrenchment compensation was paid to him. Reinstating the petitioner would amount to saddling the Society with an unwanted employee, who will have to be paid wages without any work being done by him, though the order of termination is unsustainable being violative of the mandatory provisions of section 25F of the said Act. Normal rule, in case, the order of termination is displaced is to reinstate the aggrieved employee, but in the present case facts are very peculiar and as such, to make a departure from the normal rule would not be unjustified. Under these circumstances, in lieu of reinstatement, I award a sum of Rs. 5000 as compensation to the petitioner to enable him to make a fresh start in life. The reference is answered and returned accordingly with no order as to cost.

and Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Sonepat.

No. 9/7/86-6Lab./7457.—In pursuance of the Provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of presiding Officer, Labour Court, Rohtak in respect of the dispute between the Workman and the Management of (i) The Managing Director, Haryana State Federation of Consumers Co-operative Wholesale Store Ltd., Chandigarh, (ii) Kohla Co-operative Agriculture Credit Society Ltd., Kohla, (iii) Sonepat Central Co-operative Bank Ltd., Sonepat.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.

Reference No. 79 of 84.

between

SHRI KITAB SINGH, WORKMAN AND THE MANAGEMENT OF THE MANAGING DIRECTOR, HARYANA STATE FEDRATION OF CONSUMER CO-OPERATIVE WHOLESALE STORE, LTD., CHANDIGARH, (ii) KOHLA CO-OPERATIVE AGRICULTURE CREDIT SOCIETY LTD., KOHLA, (iii) THE SONEPAT CENTRAL CO-OPERATIVE BANK LTD., SONEPAT.

Shri S. S. Gupta, A. R. for the workman.

Shri M. C. Bhardwaj, A. R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred

Endorsement No. 43-84/1184, dated 5th September, 1986.

Forwarded (four copies) to the Secretary to Government Haryana, Labour

the following dispute, between the workman Shri Kitab Singh and the management of (i) Managing Director, Haryana Co-operative Wholesale Store Ltd., Chandigarh, (ii) Kohla Co-operative Agriculture Credit Society Ltd., Kohla, (iii) Sonepat Central Co-operative Bank Ltd., Sonepat, to this Court, for adjudication,—*vide* Haryana Government Gazette Notification No. 19975-80, dated 23rd May, 1980.

Whether the termination of services of Shri Kitab Singh is justified and in order? If not, to what relief is he entitled

2. After receipt of the order of reference, notice were issued to the parties. The parties appeared. The case of the petitioner is that he was appointed as a Salesman by respondent No. 1 on 27th May, 1981 on a consolidated salary of Rs. 350 per month and that on 19th October, 1982 the respondent No. 1 through its District Manager transferred the services of the applicant to Kohla Co-operative Agriculture Credit Society Ltd., Kohla with the consent of the petitioner and that he was told at that time that he was being sent on deputation and shall remain an employee of the respondent number 1 on the same terms and conditions and that the said transfer was illegal and unjustified, because the District Manager of respondent No. 1 had no authority to effect such a transfer and furthermore the said transfer was an unfair labour practice hit by the provisions of the Industrial Disputes Act, 1947, because the intention of respondent number 1 was to get rid of the petitioner in a *mala fide* manner, as through the agency of the Society his services were terminated,—*vide* order dated 18th May, 1983 and as such, the said order of termination being retrenchment was brought about without complying with the mandatory provisions of section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). So, he has prayed for reinstatement with continuity of service and full back wages.

3. The original reference was made against the Managing Director, Haryana State Federation of Consumers Co-operative Wholesale Store Ltd., Chandigarh (hereinafter referred to as the Federation), but subsequently on an application made by the petitioner two more respondents were added (hereinafter referred to as the Society and the Bank).

4. In the reply filed by the respondent number 1, preliminary objections taken are that the petitioner was not an employee of the respondent at the time of termination of his services and as such, the reference is bad for non-joinder of proper parties. On merits, it is alleged that the Registrar Co-operative Societies, Haryana, Chandigarh ordered the transfer of retail outlets of the answering respondent to mini banks, district Sonepat and so, all the outlets of District Sonepat were transferred as such, alongwith its staff without any protest and the petitioner joined the services of the mini bank of village Kohla, which was registered co-operative Society like answering respondent. The transfer was brought about on 18th May, 1983.

5. Similarly in the reply filed by the newly added respondent, it is alleged that after his transfer to the mini bank, the respondent Society passed a fresh resolution regarding appointment of the petitioner in the Kohla Co-operative Agriculture Credit Society Ltd., Kohla and the said appointment was made on purely temporary basis and so, there is no question of the petitioner being a transferred employee from respondent No. 1. It is further alleged that since the said Society was incurring heavy loses, so much so, that the profit to the Society was even less than the salary of the petitioner, the retail outlets were closed and there was no other place where the petitioner could be adjusted and as such, the respondent/Society was constrained to dispense with the services of the petitioner, so, it is alleged that under these circumstances, the provisions of section 25F do not come into play.

4. On the pleadings of the parties, the following issues were settled for decision by me on 2nd January, 1985 :—

1. Whether there was relationship of employer and employee between the parties on the date of termination ? OPR.
2. Whether the reference is bad for non joinder of proper parties OPR.
3. As per terms of reference.

5. The petitioner himself appeared as WW-1 and the respondent examined Shri Ram Lal, General Manager, MW-1 and MW-2 Shri Pratap Singh, Secretary.

6. The learned Authorised Representatives of the parties heard.

ISSUE NO. 1 AND 2 :

7. These issues have become redundant, because the petitioner has since arrayed respondent No. 2 and 3 as parties in the present reference. Admittedly, the petitioner was not an employee of respondent No. 1 after his transfer to the mini bank known as Kohla Co-operative Agriculture Credit Society, Kohla. So, both these issues are answered against the respondent.

ISSUE NO 3 :

8. The learned Authorised Representative of respondent No. 1 Shri M. C. Bhardwaj, contended that in view of the provisions of section 25(FF) sub-clause (b), the respondent number 1 is not liable for any action taken against the petitioner. It is not in dispute that the services of the petitioner were transferred to the Mini Bank on the same terms and conditions by the Registrar, Co-operative Societies,—vide his letter, Exhibit M-1. The said letter is, dated 21st August, 1982. Since the service conditions of the petitioner remained un-changed after his transfer, respondent No. 1 was absolved of all liabilities under section 25F of the said Act *qua* the petitioner. For ready reference provisions of Section 25-FF of

the Industrial Disputes Act, 1947 can be quoted with advantage :—

Compensation to workman in case of transfer of undertaking.—Where the ownership or management of an undertaking is transferred, whether by agreement or by operation of law, from the employer in relation to that undertaking to a new employer, every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of Section 25F, as if the workman had been retrenched :

Provided that nothing in this section shall apply to a workman in any case where there has been a change of employers by reason of the transfer, if—

- (a)
- (b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer; and

9. The case of the respondent number 2 is that after his transfer to the Society *denovo* appointment of the petitioner was made and as such, since the petitioner had not put in 240 days of actual work with the respondent, his termination does not attract the provisions of section 25F of the said Act and so, compliance with the mandatory provisions of section 2(oo) of the said Act was not necessary. This contention is devoid of any force, because the Registrar Co-operative Society ordered for the transfer of the petitioner on the same terms and conditions with the mini bank, which respondent number 2 is. It is immaterial that the respondent number 2 choose to make any *denovo* appointment

of the petitioner, his conditions of appointment could not have been altered by respondent number 2 unilaterally without concurrence of the Registrar, Co-operative Societies, Haryana, who has got supervisory control over all Societies, Federations, registered under the Haryana Co-operative Societies Act, 1984.

10. The Secretary of the Society, who has appeared in the Court as MW-2 stated that services of the petitioner were dispensed with on 18th May, 1983, because the total profit to the Society from the sale of goods was Rs. 1207 whereas Society has to pay a sum of Rs. 1900 as salary to the petitioner, so the running of the retail outlets was not a good going for the respondent and the Society could ill afford to incur further loses. This part of his testimony remains unassailed. Under these circumstances, there is no difficulty in holding that the retail outlets, at which, the petitioner was posted after his transfer to the respondent Society was incurring heavy loses, so much so, that the retail outlets was not even able to show profit equal to the salary of the petitioner. These retail outlets have been opened by the Government to make available essential commodities to the rural people at reasonable rates but their functioning is so slovenly that they hardly serve the purpose, for which, they were intended to serve. This Court will refrain from delving deep into the reasons for the loses such Societies incur but at the moment it is faced with the peculiar situation where an employee who has completed more than 240 days of actual work with the respondent was

summarily dismissed from service without complying with the mandatory provisions of Section 25F of the said Act, because no prior notice or retrenchment compensation was paid to him. Reinstating the petitioner would amount to saddling the Society with an unwanted employee, who will have to be paid wages without any work being done by him, though the order of termination is unsustainable being violative of the mandatory provisions of section 25F of the said Act. Normal rule in case, the order of termination is displaced is to reinstate the aggrieved employee, but in the pre-said Act. Normal rule in case, the order such, to make a departure from the normal rule would not be unjustified. Under these circumstances, in lieu of reinstatement, I award a sum of Rs. 5,000 as compensation to the petitioner to enable him to make a fresh start in life. The reference is answered and returned accordingly with no order as to cost.

The 31st July, 1986.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Sonepat.

Endorsement No. 79-84/1186, dated 5th September, 1986

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Camp Court, Sonepat.

KULWANT SINGH,
Secretary to Government, Haryana,
Labour and Employment Department.

अम विभाग

आदेश

दिनांक 5 नवम्बर, 1986

सं. ओ०वि०/एफ०डी०/173-86/41471.—चूंकि हरियाणा के राज्यपाल की राय है कि मैं बी० सी० इन्ज. वर्क्स, 15/4, मथुरा रोड, फरीदाबाद, के अधिक श्री एस. बी. नायर, पुत्र श्री पो. बी. माधव नायर, मार्केट, एटक अफिस, एन. आई. टी., फरीदाबाद तथा प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले के सम्बन्ध में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल इस विवाद की व्यापनीयता हेतु निर्दिष्ट करना बांधीय समझते हैं।

इसलिये, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इसके द्वारा उक्त अधिनियम की धारा 7-क के अधीन गठित औद्योगिक अधिकरण, हरियाणा, फरीदाबाद को नीचे विनिर्दिष्ट मामले जो कि उक्त प्रबन्धकों तथा श्रमिकों के बीच या तो विवाद ग्रस्त मामला/मामले हैं अथवा विवाद से सुसंगत या सम्बन्धित मामला/मामले हैं न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निर्दिष्ट करते हैं—

क्या श्री एस. वी. नायर की सेवाओं का समापन न्यायोचित तथा ठीक है? यदि नहीं, तो वह किस राहत का हकदार है?

सं० ओ०वि०/एफ०डी०/८९-८६/४१४७८.—चूंकि हरियाणा के राज्यपाल की राय है कि मैं० गुप्ता इन्जिनियर्ज, प्लाट नं० 5, सैक्टर 6, फरीदाबाद, के श्रमिक श्री लीलाधर मार्पत श्री शिवचरण शर्मा, गांव सिही, जिला फरीदाबाद, तथा प्रबन्धकों के मध्य इस में इसके बाद लिखित मामले के सम्बन्ध में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल इस विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं;

इसलिये, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इसके द्वारा उक्त अधिनियम की धारा 7-क के अधीन गठित औद्योगिक अधिकरण हरियाणा फरीदाबाद को नीचे विनिर्दिष्ट मामले जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला/मामले हैं अथवा विवाद से सुसंगत या सम्बन्धित मामला/मामले हैं न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निर्दिष्ट करते हैं :—

क्या श्री लीलाधर को सेवाओं का समापन न्यायोचित तथा ठीक है? यदि नहीं, तो वह किस राहत का हकदार है?

सं० ओ०वि०/एफ०डी०/१२१-८६/४१४८६.—चूंकि हरियाणा के राज्यपाल की राय है कि मैं० फ़युज़बेस इण्डिया प्रा. लि., प्लाट नं० 7, 27 ए फरीदाबाद, के श्रमिक श्री अंगद प्रसाद, पुत्र श्री भासीरथी सिंह, ग्राम चथाई बाजार डा. खर जिला देवरीया (उत्तरप्रदेश) तथा उसके प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले के सम्बन्ध में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल इस विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं;

इसलिये, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इसके द्वारा उक्त अधिनियम, की धारा 7 के अधीन गठित औद्योगिक अधिकरण हरियाणा फरीदाबाद को नीचे विनिर्दिष्ट मामले जो कि उक्त प्रबन्धकों तथा श्रमिकों के बीच या तो विवादग्रस्त मामला/मामले हैं अथवा विवाद से सुसंगत या सम्बन्धित मामला/मामले हैं न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निर्दिष्ट करते हैं :—

क्या श्री अंगद प्रसाद की सेवा समाप्त की गई है या उसने स्वयं गैर-हाजिर होकर पूर्णांग्रिधिकार (लियन) खोया है? इस बिन्दु पर निर्णय के फलस्वरूप वह किस राहत का हकदार है?

सं० ओ०वि०/एफ०डी०/१५१-८६/४१४९४.—चूंकि हरियाणा के राज्यपाल की राय है कि मैं० इण्डियन एल्युमिनियम कैबलज लि०, १२/१, मथुरा रोड, फरीदाबाद के श्रमिक श्री सतबीर सिंह, ग्राम पलवली डा. कलाखेड़ी, फरीदाबाद, तथा प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले के सम्बन्ध में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल इस विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इसके द्वारा उक्त अधिनियम, की धारा 7 के अधीन गठित औद्योगिक अधिकरण हरियाणा फरीदाबाद को नीचे विनिर्दिष्ट मामले जो कि उक्त प्रबन्धकों तथा श्रमिकों के बीच या तो विवादग्रस्त मामला/मामले हैं अथवा विवाद से सुसंगत या सम्बन्धित मामला/मामले हैं न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निर्दिष्ट करते हैं :—

क्या श्री सतबीर सिंह, की सेवाओं का समापन न्यायोचित तथा ठीक है? यदि नहीं तो वह किस राहत का हकदार है?